

**BERNSTEIN LITOWITZ BERGER
& GROSSMANN LLP**

Jonathan D. Uslander (Bar No. 256898)
jonathanu@blbglaw.com
2121 Avenue of the Stars, Suite 2575
Los Angeles, CA 90067
Tel: (310) 819-3481

John Rizio-Hamilton (admitted *pro hac vice*)
johnr@blbglaw.com
1251 Avenue of the Americas, 44th Floor
New York, NY 10020
Tel: 212-554-1400

*Counsel for Lead Plaintiff
Louisiana Sheriffs' Pension & Relief Fund
and the proposed class*

[Additional counsel on signature block.]

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

IN RE SKYWORKS SOLUTIONS, INC.
SECURITIES LITIGATION

Case No. 8:25-cv-00411-DOC-JDE

CLASS ACTION

**LEAD PLAINTIFF'S
OPPOSITION TO DEFENDANTS'
REQUEST FOR JUDICIAL
NOTICE CONSIDERATION OF
DOCUMENTS INCORPORATED
BY REFERENCE IN SUPPORT
OF MOTION TO DISMISS**

Judge David O. Carter
Date: January 12, 2026
Time: 8:30 a.m.
Courtroom: 10A

TABLE OF CONTENTS

	<u>Page</u>
INTRODUCTION	1
LEGAL STANDARD.....	1
ARGUMENT	3
I. DEFENDANTS FAIL TO IDENTIFY THE SPECIFIC FACTS THEY SEEK TO JUDICIALLY NOTICE OR INCORPORATE BY REFERENCE	3
II. THE MOTION SEEKS TO USE THE EXHIBITS IMPROPERLY TO DRAW FACTUAL INFERENCES AND RESOLVE FACTUAL DISPUTES.....	4
CONCLUSION	6

TABLE OF AUTHORITIES

Page(s)

CASES

<i>In re Am. Apparel, Inc. S'holder Litig.</i> , 855 F. Supp. 2d 1043 (C.D. Cal. 2012)	2
<i>Capaci v. Sports Rsch. Corp.</i> , 445 F. Supp. 3d 607 (C.D. Cal. 2020)	1
<i>Cota v. Aveda Corp.</i> , 2020 WL 6083423 (S.D. Cal. Oct. 14, 2020)	4
<i>Indep. Towers of Washington v. Washington</i> , 350 F.3d 925 (9th Cir. 2003)	4
<i>Khoja v. Orexigen Therapeutics, Inc.</i> , 899 F.3d 988 (9th Cir. 2018)	<i>passim</i>
<i>Love v. Int'l Hotel Assocs. No. 2 LLC</i> , 2021 WL 4482106 (N.D. Cal. Sept. 30, 2021)	4
<i>In re Rigel Pharm., Inc. Sec. Litig.</i> , 697 F.3d 869 (9th Cir. 2012)	2
<i>Rollins v. Dignity Health</i> , 338 F. Supp. 3d 1025 (N.D. Cal. 2018)	2
<i>Rosenberg-Wohl v. State Farm Fire and Cas. Co.</i> , 2021 WL 4243389 (N.D. Cal. Sept. 17, 2021)	3
<i>Von Saher v. Norton Simon Museum of Art at Pasadena</i> , 592 F.3d 954 (9th Cir. 2010)	2

OTHER AUTHORITIES

Fed. R. Evid. 201	2, 4
Fed. R. Civ. P. 12(b)(6)	1, 2

INTRODUCTION

Lead Plaintiff Louisiana Sheriffs' Pension & Relief Fund ("Plaintiff") respectfully submits this opposition to Defendants' Request for Judicial Notice ("Request") and Consideration of Documents Incorporated By Reference (ECF No. 61, the "Request") for Exhibits 1–9 (the "Exhibits"), attached to the Declaration of Jaime A. Bartlett and filed concurrently with Defendants' Motion to Dismiss (EFC No. 60, the "Motion").

While the Exhibits include the types of documents that may be subject to judicial notice or incorporation by reference for certain limited purposes, such as to evaluate what information was available to the market (Request at 5), Defendants fail to specify what facts they seek to have judicially noticed or which facts or inferences they seek the Court to draw from any documents incorporated by reference. Their request, therefore, is impermissibly vague. *See, e.g., Capaci v. Sports Rsch. Corp.*, 445 F. Supp. 3d 607, 617 (C.D. Cal. 2020) (denying judicial notice request where a party did "not state which facts within those studies they want the court to judicially notice").

To the extent the Court considers the materials, the Court should reject Defendants' reliance on certain Exhibits for improper purposes, such as to resolve factual disputes and/or raise defenses, which Circuit precedent prohibits at this stage of litigation. *See Khoja v. Orexigen Therapeutics, Inc.*, 899 F.3d 988, 1000 (9th Cir. 2018).

LEGAL STANDARD

"Generally, district courts may not consider material outside the pleadings when assessing the sufficiency of a complaint under Rule 12(b)(6) of the Federal Rules of Civil Procedure." *Khoja*, 899 F.3d at 998. To do so, the court must convert

1 the 12(b)(6) motion into a motion for summary judgment and allow both parties the
2 opportunity “to present all the material that is pertinent to the motion.”¹ *Id.*

3 There are two limited exceptions to this rule. **First**, under Federal Rule of
4 Evidence 201, a court may take judicial notice of “a fact that is not subject to
5 reasonable dispute because it: (1) is generally known within the trial court’s
6 territorial jurisdiction; or (2) can be accurately and readily determined from sources
7 whose accuracy cannot reasonably be questioned.” *Rollins v. Dignity Health*, 338 F.
8 Supp. 3d 1025, 1031 (N.D. Cal. 2018) (citing Fed. R. Evid. 201(b)). Under *In re*
9 *Rigel Pharmaceuticals, Inc. Securities Litigation*, 697 F.3d 869, 876 (9th Cir. 2012),
10 courts may include in their review of a Rule 12(b)(6) motion to dismiss matters over
11 which they may take judicial notice, but “a court cannot take judicial notice of
12 disputed facts” of such documents. *Khoja*, 899 F.3d at 999. A court may thus “take[]
13 judicial notice of only of the existence and contents of the SEC filings, not the truth
14 of information contained in them.” *In re Am. Apparel, Inc. S’holder Litig.*, 855 F.
15 Supp. 2d 1043, 1062 n.143 (C.D. Cal. 2012); accord *Von Saher v. Norton Simon*
16 *Museum of Art at Pasadena*, 592 F.3d 954, 960 (9th Cir. 2010) (taking judicial notice
17 to “indicate what was in the public realm at the time, not whether the contents of
18 those articles were in fact true.”).

19 **Second**, under the judicially-created doctrine of incorporation by reference,
20 the court may “treat[] certain documents as though they are part of the complaint
21 itself,” particularly where those documents “form[] the basis of the plaintiff’s
22 claim[s]” or where plaintiffs reference them “extensively” throughout their
23 complaint. *Khoja*, 899 F.3d at 1002. Like documents subject to judicial notice,
24 however, “it is improper to assume the truth of an incorporated document if such
25 assumptions only serve to dispute facts stated in a well-pleaded complaint”—an
26
27

28 ¹ Emphases are added and internal citations and quotations are omitted unless noted.

1 admonition “consistent with the prohibition against resolving factual disputes at the
2 pleading stage.” *Id.* at 1003.

3 In sum, courts may only consider documents outside a complaint for narrow
4 purposes and may not rely on them to resolve any factual disputes. *See, e.g., id.*
5 (limiting consideration of analyst reports to showing the presence of analyst
6 coverage of a company and the timing of the publication of the alleged misstatements
7 and consideration of SEC filings to the price of shares listed in a registration
8 statement and precluding reliance on those documents to resolve disputed facts). As
9 the Ninth Circuit made clear, defendants may not “present their own version of the
10 facts at the pleading stage” through documents deemed incorporated by reference or
11 judicially noticed. *Id.* at 999. Such “unscrupulous use of extrinsic documents to
12 resolve competing theories against the complaint” is impermissible at this stage in
13 the proceedings because doing so “risks premature dismissals of plausible claims
14 that may turn out to be valid after discovery.” *Id.* at 998.²

15 ARGUMENT

16 **I. DEFENDANTS FAIL TO IDENTIFY THE SPECIFIC FACTS THEY** 17 **SEEK TO JUDICIALLY NOTICE OR INCORPORATE BY** **REFERENCE**

18 Plaintiff acknowledges that the Exhibits include documents of the type subject
19 to judicial notice or incorporation by reference. The Request, however, does not
20 identify the specific facts Defendants seek the Court to judicially notice from the
21 Exhibits. *See, e.g., Khoja*, 899 F. 3d at 999, 1018 (reversing and remanding district
22 court’s failure to specify those facts that it had judicially noticed); *see also*
23 *Rosenberg-Wohl v. State Farm Fire and Cas. Co.*, 2021 WL 4243389, at *4 (N.D.
24 Cal. Sept. 17, 2021) (“If a court takes judicial notice of a document, it must identify
25

26 ² *Khoja* further cautioned against a “concerning pattern” of defendants in securities
27 cases “exploiting” the incorporation-by-reference doctrine and judicial notice to
28 improperly present a one-sided version of events at the pleading stage in an attempt
to undermine well-pled allegations. 899 F.3d at 998.

1 the specific fact or facts it is noticing from the document.”); *Love v. Int’l Hotel*
2 *Assocs. No. 2 LLC*, 2021 WL 4482106, at *2 (N.D. Cal. Sept. 30, 2021) (“The Ninth
3 Circuit has clarified that if a court takes judicial notice of a document, it must specify
4 what facts it judicially noticed from the document.”). Here, Defendants’ “failure to
5 specify [] which facts it would like the Court to take judicial notice,” renders the
6 Request vague and ambiguous, and the Court should decline to judicially notice facts
7 unidentified by Defendants. *Cota v. Aveda Corp.*, 2020 WL 6083423, at *10 (S.D.
8 Cal. Oct. 14, 2020).

9 Under Ninth Circuit law, the Court should only *consider* taking judicial notice
10 of the facts specifically identified in the Motion and then determine, as discussed
11 more fully below, whether any of those facts “is not subject to reasonable dispute”
12 as required by FRE 201. *See, e.g., Indep. Towers of Washington v. Washington*, 350
13 F.3d 925, 929-30 (9th Cir. 2003) (declining to “pick through” documents
14 unaccompanied by legal argument because “[o]ur adversarial system relies on the
15 advocates to inform the discussion and raise the issues to the court”).

16 **II. THE MOTION SEEKS TO USE THE EXHIBITS IMPROPERLY TO**
17 **DRAW FACTUAL INFERENCES AND RESOLVE FACTUAL**
18 **DISPUTES**

19 Ignoring Ninth Circuit’s admonition against offering documents on a 12(b)(6)
20 motion to raise “factual disputes against [] [P]laintiffs[’] well-pled allegations in the
21 complaint,” Defendants’ Motion repeatedly distorts or presents strained
22 interpretations of the content of the Exhibits. *Khoja*, 899 F.3d at 1014.

23 Examples of Defendants’ improper reliance on the Exhibits to resolve
24 disputed facts include the following:

- 25 1. **Ex. 1:** Defendants cite certain facts from Exhibit 1, Skyworks’s Form 10-K
26 dated November 17, 2023, for their truth. Motion at 4 (“Skyworks had
27 disclosed the risk of competitors gaining content at Skyworks’[s] expense”);
28

1 *id.* at 12 (“Skyworks warned investors that it could lose content position to its
2 competitors”).

3 2. **Ex. 2:** Defendants seek judicial notice that an exchange from the August 7,
4 2023 earnings call was “about past revenue generated and not about the
5 iPhone 16,” *id.* at 13.

6 3. **Ex. 3:** Defendants cite to a transcript of Skyworks’s November 2, 2023
7 earnings call in asking that the Court find there are “[n]o alleged facts show
8 that the Market understood these generalities to confirm that Skyworks had
9 obtained a particular content position in the iPhone 16,” *id.* at 13-14.

10 4. **Ex. 4:** Defendants cite to a transcript of the January 30, 2024 earnings call in
11 asking that the Court find that a question was “about potential future content
12 position,” *id.* at 14.

13 5. **Ex. 5:** Defendants ask that the Court interpret Defendant Griffin’s statements
14 during a March 5, 2024 investor conference, as merely “speculat[ing] about
15 the industry should Apple not rely on Qualcomm for any of its modems,” and
16 assert that Griffin’s response was speaking to a “hypothetical future scenario,”
17 *id.* at 15.

18 6. **Ex. 6:** Defendants cite to a transcript from the November 12, 2024 earnings
19 call and ask that the Court find that “[t]his question was not specific to the
20 iPhone 17 and Griffin’s response was equally general optimism and forward-
21 looking,” *id.*

22 7. **Exs. 7 and 8:** Defendants seek that the Court find that the notes in the
23 Oppenheimer and J.P. Morgan reports merely “concern the overall content
24 growth opportunity for all suppliers for RF components within iPhone going
25 forward, not Skyworks’ expectations for its own portion of that content
26 opportunity in the iPhone 17,” and that “the references to Skyworks losing
27
28

1 content in the iPhone 16 recognize that Skyworks’ content position was not
2 ‘secure.’” *id.* at 16-17.

3 8. **Ex. 9:** Defendants seek judicial notice of the fact that “having lost content for
4 the iPhone 16, Skyworks revised its risk disclosures to acknowledge the risk
5 had already materialized,” *id.* at 18, or that “[f]ollowing its content loss on the
6 iPhone 16, in its FY24 10-K (filed on November 17, 2024), Skyworks updated
7 the disclosure to reflect that it had experienced a content loss,” *id.* at 4.

8 Circuit precedent forecloses the Court from considering any of the Exhibits
9 for these improper purposes. *See, e.g., Khoja*, 899 F.3d at 999, 1003 (“a court cannot
10 take judicial notice of disputed facts contained in such public records” or “assume
11 the truth of an incorporated document”). Thus, the Court should deny the Request to
12 the extent it seeks to use the Exhibits to resolve factual disputes at this stage of the
13 proceedings, particularly when those disputes concern what Defendants thought or
14 believed.

15 CONCLUSION

16 Accordingly, Plaintiff respectfully requests that the Court decline to judicially
17 notice or infer from any Exhibits incorporated by reference any facts or inferences
18 not specifically identified by Defendants. As to those facts identified by Defendants,
19 the Court should deny the Motion to the extent Defendants attempt to draw improper
20 factual inferences at the pleading stage.

1 Dated: November 18, 2025

Respectfully submitted,

2 **BERNSTEIN LITOWITZ BERGER**
3 **& GROSSMANN LLP**

4 /s/ Jonathan D. Uslander

5 Jonathan D. Uslander (Bar No. 256898)
6 jonathanu@blbglaw.com
7 2121 Avenue of the Stars, Suite 2575
8 Los Angeles, CA 90067
9 Tel: (310) 819-3481

-and-

10 John Rizio-Hamilton (admitted *pro hac*
11 *vice*)
12 johnr@blbglaw.com
13 Robert Kravetz (admitted *pro hac vice*)
14 robert.kravetz@blbglaw.com
15 Abygail Kritta (admitted *pro hac vice*)
16 abygail.kritta@blbglaw.com
17 1251 Avenue of the Americas, 44th Floor
18 New York, NY 10020
19 Tel: 212-554-1400
20 Fax: 212-554-1444

21 *Counsel for Lead Plaintiff Louisiana*
22 *Sheriffs' Pension & Relief Fund and the*
23 *proposed class*
24
25
26
27
28